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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,164	09/17/2003	Gary J. Pond	4285.17865-PROV FOR	8446
26308	7590	06/01/2005	EXAMINER	
RYAN KROMHOLZ & MANION, S.C. POST OFFICE BOX 26618 MILWAUKEE, WI 53226			MANAHAN, TODD E	
			ART UNIT	PAPER NUMBER
			3732	

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/667,164

Applicant(s)

POND, GARY J.

Examiner

Todd E. Manahan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/17/03</u> . | 6) <input type="checkbox"/> Other: ____.  |

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## **DETAILED ACTION**

### ***Specification***

The abstract of the disclosure is objected to because it contains "means". Legal phraseology such as "said" and "means" should be avoided. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4, 5 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 4, line 2, "said drive means" lacks a prior antecedent.

In claim 5, line 2, "said drive means" lacks a prior antecedent.

In claim 10, line 2, "said shield" lacks a prior antecedent.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 8-10 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wu (United States Patent No. 5,927,976).

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Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Graceffo (United States Patent No. 3,826,004).

Graceffo discloses a dental handpiece comprising a generally hollow body 12, a reservoir 64 containing prophy paste securely attached to the body, a plunger 66 in communication with the paste in the reservoir, and a through conduit 68 having a proximal end in fluid communication with the reservoir and a distal end in fluid communication with the area where dental material may be applied. A polishing member 18 is located near the distal end of the conduit and is connected to a drive member which includes a control mechanism. Drive means (ratchet mechanism) is arranged to receive the plunger. The drive member is air powered. The prophy paste is contained in a removable cartridge.

Claims 1-5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker (United States Patent No. 4,220,446).

Walker discloses a dental handpiece comprising a generally hollow body 12, a reservoir 14 containing prophy paste 52 securely attached to the body, a plunger 54 in communication with the paste in the reservoir, and a through conduit 66 having a proximal end in fluid communication with the reservoir and a distal end 16 in fluid communication with the area where dental material may be applied. A polishing member 70 is located near the distal end of the conduit and is connected to a drive member which includes a control mechanism. Drive means, in the form of compressed air, is arranged to receive the plunger.

Claims 1-5, 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Condon (United States Patent No. 3,775,849).

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Condon discloses a dental handpiece comprising a generally hollow body 14, a reservoir 41 containing prophylactic paste securely attached to the body, a plunger 58 in communication with the paste in the reservoir, and a through conduit 60 having a proximal end 61 in fluid communication with the reservoir and a distal end 62 in fluid communication with the area where dental material may be applied. A polishing member 21 is located near the distal end of the conduit and is connected to a drive member which includes a control mechanism. Drive means, in the form of compressed air, is arranged to receive the plunger. The conduit includes a removable shield 72.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Condon.

It would have been obvious to one skilled in the art to provide the control mechanism for the drive member connected to the polishing member with a reversible direction trigger in order to permit the operator to reverse the direction of rotation of the polishing member if so desired.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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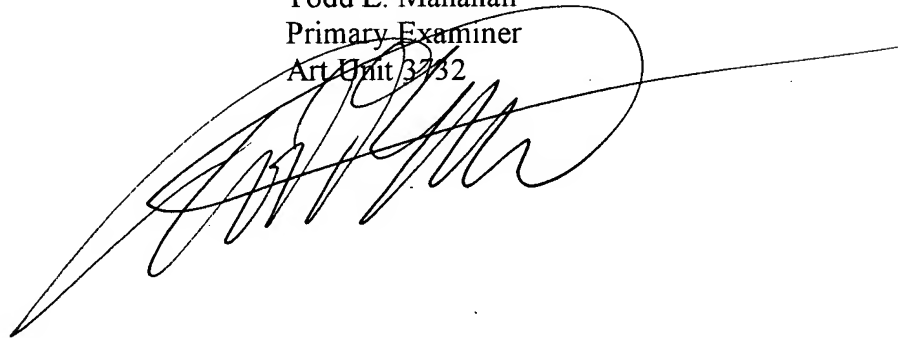
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd E. Manahan whose telephone number is 571 272-4713. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571 273-4720. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Todd E. Manahan  
Primary Examiner  
Art Unit 3732

T.E. Manahan  
24 May 2005

A large, stylized handwritten signature in black ink, likely belonging to Todd E. Manahan, is written over the printed name and title. The signature is fluid and cursive, with a long horizontal stroke extending to the right.